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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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MAY 16 2016

AZ CORP COMMISSION  
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IN THE MATTER OF THE APPLICATION OF  
SULPHUR SPRINGS VALLEY ELECTRIC  
COOPERATIVE, INC. FOR A HEARING TO  
DETERMINE THE FAIR VALUE OF ITS  
PROPERTY FOR RATEMAKING PURPOSES, TO  
FIX A JUST AND REASONABLE RETURN  
THEREON, TO APPROVE RATES DESIGNED TO  
DEVELOP SUCH RETURN, AND FOR RELATED  
APPROVALS.

DOCKET NO. E-01575A-15-0312

**PROCEDURAL ORDER GRANTING  
MOTION TO COMPEL AND  
EXTENDING THE TIME CLOCK**

**BY THE COMMISSION:**

On May 5, 2015, Sulphur Springs Valley Electric Cooperative, Inc. ("SSVEC" or "Co-op") filed an Application with the Arizona Corporation Commission ("Commission") for a rate increase. By Procedural Order dated October 6, 2015 (modifying a previous Procedural Order), the matter was set for hearing to commence on May 17, 2016, and other procedural guidelines were established.

On January 13, 2016, the Energy Freedom Coalition of America ("EFCA") requested intervention. EFCA is comprised of seven solar energy system providers: SolarCity Corporation, Silevo, LLC, Zep Solar, LLC, NRG Energy, Inc., Go Solar, LLC, 1 Sun Solar Electric, LLC, and Ecological Energy Systems. In its Application to Intervene, EFCA stated that "[its members] are important stakeholders in Arizona's rooftop solar industry. EFCA's members are responsible for thousands of residential, school, church, government and commercial solar installations. ...EFCA is entitled to intervene because EFCA and its members are directly and substantially affected by the Proceeding..." By Procedural Order issued January 22, 2016, EFCA's Application for Intervention was granted.

On May 10, 2016, SSVEC filed its Motion to Compel Intervenor Energy Freedom Coalition of America's Responses to SSVEC's First Set of Data Requests ("Motion"). The Co-op also requested

1 expedited oral argument.

2 On May 11, 2016, EFCA filed its Response to SSVEC's Motion to Compel Responses to  
3 SSVEC's First Set of Data Requests ("Motion").

4 Oral arguments on the Motion were held on May 12, 2016. Appearing through counsel were  
5 SSVEC, EFCA, Commission Utilities Division ("Staff"), and additional intervenors, Trico Electric  
6 Cooperative, Inc. ("Trico"), Arizona Public Service Company ("APS"), and Arizona Solar Deployment  
7 Alliance ("ASDA"). A fourth intervenor, Arizona Solar Energy Industries Association ("AriSEIA"),  
8 was not present at oral argument.

9 In its Motion, the Co-op claims it had provided 18 narrowly-focused data requests to EFCA  
10 seeking information pertaining to leases and purchase contracts between distributed generation ("DG")  
11 customers and EFCA's members. The information sought was limited to the years 2014, 2015, and  
12 2016 to date, and restricted to those solar installations within SSVEC's service area. SSVEC asserts  
13 the information sought is necessary to help it evaluate EFCA's arguments regarding the economic  
14 impact of proposed rates on DG customers. SSVEC claims this information is relevant to the issues in  
15 this matter.

16 EFCA objects to 13 of the 18 data requests, alleging that SSVEC "is impermissibly demanding  
17 information not from EFCA, but from EFCA's individual members who are not parties to this docket."  
18 EFCA points out that it does not have the information sought, and, as such, cannot provide it. EFCA  
19 also contends that the requested information is not relevant, not reasonably calculated to lead to the  
20 discovery of admissible evidence, unreasonably vague, and is unduly burdensome. In addition, EFCA  
21 claims the information described is confidential and proprietary business information. Finally, EFCA  
22 contends that requiring its non-party members would have a chilling effect on trade associations' future  
23 participation as intervenors in matters before the Commission.

24 During the proceeding, both SSVEC and EFCA acknowledged that the Commission has broad  
25 discovery powers and has the authority to order disclosure that might be otherwise impermissible in  
26 the traditional courts.<sup>1</sup> EFCA asserted it did not have the authority to compel its members to provide

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27 <sup>1</sup> A.A.C. R-14-3-109(K). "Rules of evidence. In conducting any investigation, inquiry or hearing, neither the Commission  
28 nor any officer or employee thereof shall be bound by the technical rules of evidence, and no informality in any proceeding  
or in the manner of taking testimony shall invalidate any order, decision, rule or regulation made, approved or confirmed

1 the information sought in the data requests. The parties were advised that the Commission has the  
2 authority to issue subpoenas, if necessary, pursuant to Arizona Administrative Code ("A.A.C.") R14-  
3 3-109(O).

4 At the conclusion of the hearing, it was ruled that EFCA should provide the information sought  
5 in data requests numbered 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 1.9, 1.12, and 1.14. EFCA had previously  
6 provided responses to data requests numbered 1.13, 1.15, 1.16, 1.17, and 1.18. The information sought  
7 in data requests numbered 1.10 and 1.11 would be unduly burdensome and would contain private  
8 information of the members' customers, which is unnecessary for the purposes of this proceeding.

9 SSVEC and EFCA were advised that they could execute a confidentiality agreement in which  
10 the information provided by EFCA could be viewed only by SSVEC's counsel, SSVEC's outside  
11 consultants, and Staff. The remaining parties did not object to this limitation.

12 In addition, intervenors APS and ASDA stated they would not be presenting any evidence or  
13 testimony and asked to be excused from attending the hearing. No objections were given and the  
14 requests were granted. Trico indicated it would not be presenting any evidence or testimony, but  
15 advised that it would be conducting limited cross-examination of certain witnesses.

16 On May 13, 2016, a pre-hearing conference was held. In attendance were counsel for SSVEC,  
17 EFCA, AriSEIA, and Trico. During the conference, Staff indicated that two of its witness were not  
18 available to testify on the days currently scheduled for hearing, but were available to testify on May  
19 26, 2016.

20 As such, it is necessary to set an additional day for the taking of testimony.

21 IT IS THEREFORE ORDERED that EFCA is **directed to provide responses to SSVEC's**  
22 **data requests numbered 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 1.9, 1.12, and 1.14. EFCA is not**  
23 **required to provide the information sought in data requests numbered 1.10 and 1.11.**

24 IT IS FURTHER ORDERED that an **additional day of hearing shall be held on May 26,**  
25 **2016, at the Commission's Tucson offices, 400 West Congress, Room 222, beginning at 10:00 a.m.**

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28 by the Commission. Rules of the Superior Court of the state of Arizona will be generally followed but may be relaxed in  
the discretion of the Commission or presiding officer when deviation from the technical rules of evidence will aid in  
ascertaining the facts."

IT IS FURTHER ORDERED that the **time clock in this matter is extended accordingly.**

IT IS FURTHER ORDERED that intervenors Arizona Public Service and Arizona Solar Deployment are excused from attending the hearing.

IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized Communications) applies to this proceeding and shall remain in effect until the Commission's Decision in this matter is final and non-appealable.

IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

DATED this 16<sup>th</sup> day of May, 2016.



BELINDA A. MARTIN  
ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed  
this 16<sup>th</sup> day of May, 2016 to:

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